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4 UNITED STATES DISTRICT COURT

5 Northern District of California

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7 GREGORY BENDER,

8 Plaintiff,

No. C 09-01247 MMC (MEJ)

9 v.

10 NOKIA INC.,

11 Defendant.  
12 \_\_\_\_\_ /**ORDER RE JOINT DISCOVERY  
LETTER (DKT. #54)**

12 Before the Court is the joint discovery dispute letter (“Joint Letter”) filed by Plaintiff  
13 Gregory Bender (“Plaintiff”) and Defendant Nokia Inc. (“Defendant”). (Dkt. #54.) Defendant seeks  
14 an order striking Plaintiff’s infringement contentions or alternatively, limiting their scope and  
15 compelling Plaintiff to amend his contentions to comply with Patent Local Rule (“Rule”) 3-1.

16 Plaintiff’s infringement contentions have been the subject of much dispute of late. Plaintiff  
17 has filed over twenty lawsuits<sup>1</sup> alleging infringement on U.S. Patent No. 5,103,188 (the ““188  
18 Patent”) and judges in this district, including the undersigned, have repeatedly found that his  
19 infringement contentions lack the specificity necessary to comply with Rule 3-1. In this Court’s  
20 most recent Order on the matter, *Bender v. Freescale Semiconductor, Inc.*, C 09-1156 PJH, 2010  
21 WL 1689465 (N.D. Cal. April 26, 2010), the undersigned held that Plaintiff’s Secondary  
22 Infringement Contentions did not comply with Rule 3-1. There, the defendant asked for an order  
23 striking Plaintiff’s Secondary Infringement Contentions or alternatively, to limit further amendments  
24 to the specific products already charted, exactly as Defendant has done here. *Freescale*, at \*1. The  
25 Court did not strike Plaintiff’s Secondary Infringement Contentions, but limited further amendments  
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28 <sup>1</sup>See *Bender v. LG Electronics U.S.A., Inc.*, No. C 09-02114 JF, 2009 WL 4730900, at \*1 n.1  
(N.D. Cal. Dec. 7, 2009) (collecting cases filed by Plaintiff).

1 to the 15 products charted, and the undersigned stated that the motion to strike would be revisited  
2 should the amendments fail to comply with Rule 3-1. *Id.* at \*4.

3 Here, Plaintiff's Infringement Contentions are identical to his Secondary Infringement  
4 Contentions in the Freescale matter, with the exception of Defendant's name.<sup>2</sup> Because Plaintiff has  
5 not yet had an opportunity to amend his Infringement Contentions in the instant case, the Court will  
6 allow him to do so. However, the Court limits Plaintiff to the single product specifically charted in  
7 his Infringement Contentions. See *Freescale*, at \*7.

8 For the foregoing reasons, the Court hereby DENIES Defendant's motion to strike all of  
9 Plaintiff's Infringement Contentions, and GRANTS Defendant's motion to compel Infringement  
10 Contentions limited to the one product specifically charted therein. As such, Plaintiff is ORDERED  
11 to amend his Infringement Contentions in accordance with Rule 3-1 and serve them upon Defendant  
12 within 30 days following issuance of this Order.

13 **IT IS SO ORDERED.**

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15 Dated: June 17, 2010

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Maria-Elena James  
Chief United States Magistrate Judge



<sup>2</sup>The Infringement Contentions here are Exhibit A to Dkt. #54. The Secondary Infringement Contentions in the Freescale matter are Exhibit B to Dkt. #58.)